

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 13
)	
PHILLIP A. DYE,)	Bank. No. 05-11619(JKF)
)	
Debtor.)	
)	
PHILLIP A. DYE and REBECCA J. DYE,)	
)	
Appellants,)	
)	
v.)	Civ. Action No. 05-684-***
)	
TRUSTEE MICHAEL B. JOSEPH,)	
)	
Appellee.)	

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 DISTRICT OF DELAWARE

MEMORANDUM ORDER

Appellant, Phillip A. Dye ("appellant") appealed a decision of the Bankruptcy Court to the District Court, and at the same time filed an application to proceed in forma pauperis. (D.I. 1, 3.) The initial application to proceed in forma pauperis dated September 15, 2005, indicated appellant had an annual income of \$35,640.00. (D.I. 1.) The application to proceed in forma pauperis was administratively terminated because appellant had paid the filing fee for his appeal in Bankruptcy Court. See D.I. 3, Docket Notation Dec. 28, 2005.

This court dismissed the bankruptcy appeal, and on August 23, 2006, appellant filed a notice of appeal to the United States Court of Appeals for the Third Circuit. At the same time, he filed a new application to proceed in forma pauperis on appeal. (D.I. 25, 26.) The second application to proceed in forma pauperis was denied on October 6, 2006, based upon appellant's initial application which indicated he had sources of

income. See D.I. 1, 34. Appellant then filed a motion for reconsideration of the October 6, 2006 order. (D.I. 36.)

The court has review the second application to proceed in forma pauperis. It is dated August 21, 2006, and indicates that almost a year later, appellant no longer has any sources of income. Therefore, the court will grant the motion for reconsideration.

Appellant apparently advised the United States Court of Appeals for the Third Circuit that he had paid in full the \$455.00 filing fee. See D.I. 39. Appellant, however, has not paid the \$455.0 filing fee. On two occasions appellant submitted to the District Court unacceptable forms of payment entitled "Letter of Advice and Legal Notice" and "Statement of Assignment of Account." (D.I. 27, 33.) Neither submission was legal tender and neither were considered as fulfilling appellant's obligation to pay the \$455.00 filing fee.

THEREFORE, at Wilmington this 23 day of May, 2007, IT IS ORDERED that:

1. Appellant's "Letter of Advice and Legal Notice" and "Statement of Assignment of Account" (D.I. 27, 33) are unacceptable forms of payment for the \$455.00 filing fee.
2. Appellant's motion for reconsideration (D.I. 36) is **granted**.
3. The October 6, 2006 order (D.I. 34) denying appellant in forma pauperis status is **vacated**.
4. Appellant's application to proceed in forma pauperis on appeal (D.I. 26), dated August 21, 2006 is **granted**.


Honorable Mary Pat Thyng
U.S. Magistrate Judge